

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Genevieve Lamont	Team: Squad #8	CCRB Case #: 202004408	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 5:00 PM	Location of Incident: Bedford Avenue and Tilden Avenue	Precinct: 70	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 06/17/2020 5:30 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 06/17/2020 5:30 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Mariusz Galazka	24100	947011	061 PCT
2. POM Christophe Pierre	02499	962014	070 PCT
3. POM Michael Haber	11401	955967	071 PCT
4. Officers			
5. An officer			
6. CPT Vitaliy Zelikov	00000	936353	070 PCT
7. COD Terence Monahan	00000	876747	CD OFF
8. AC Brian Conroy	00000	875187	PBBS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DI Ludwig Romero	00000	926355	071 PCT
2. LT Daniel Guida	00000	941862	071 PCT
3. POM Triston Trunk	16858	958131	INT CIS
4. POM Salvatore Montalto	16302	960960	061 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Mariusz Galazka	Off. Language: Police Officer Mariusz Galazka made remarks to individuals based upon the perceived sexual orientation of individuals.	
B.POM Mariusz Galazka	Off. Language: Police Officer Mariusz Galazka made remarks to individuals based upon the gender of individuals.	
C.POM Mariusz Galazka	Abuse: Police Officer Mariusz Galazka threatened individuals with the use of force.	
D.POM Mariusz Galazka	Discourtesy: Police Officer Mariusz Galazka spoke discourteously to individuals.	
E.POM Mariusz Galazka	Force: Police Officer Mariusz Galazka struck individuals with an asp.	

Officer(s)	Allegation	Investigator Recommendation
F.POM Christophe Pierre	Force: Police Officer Christopher Pierre used physical force against individuals.	
G.POM Christophe Pierre	Force: Police Officer Christopher Pierre struck individuals with a baton.	
H. Officers	Force: Officers used physical force against individuals.	
I. An officer	Force: An officer used physical force against individuals.	
J.POM Michael Haber	Force: Police Officer Michael Haber used physical force against individuals.	
K.POM Michael Haber	Abuse: Police Officer Michael Haber obstructed his shield number.	
L.CPT Vitaliy Zelikov	Force: Captain Vitaliy Zelikov used physical force against § 87(2)(b)	
M.CPT Vitaliy Zelikov	Force: Captain Vitaliy Zelikov used physical force against § 87(2)(b)	
N.CPT Vitaliy Zelikov	Force: Captain Vitaliy Zelikov used pepper spray against § 87(2)(b)	
O.CPT Vitaliy Zelikov	Force: Captain Vitaliy Zelikov used pepper spray against § 87(2)(b)	
P. Officers	Force: Officers used physical force against § 87(2)(b)	
Q.AC Brian Conroy	Force: Brian Conroy participated in the use of force against individuals.	
R.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of force against individuals.	
§ 87(2)(g), § 87(4-b)		

Case Summary

On June 17, 2020, § 87(2)(b) filed this complaint with the CCRB via the on-line website.

On May 30, 2020, § 87(2)(b) attended a 2020 Police Brutality protest demonstration at Parkside Avenue and Ocean Avenue in Brooklyn. At approximately 5:00 p.m., when the group reached the intersection of Bedford Avenue and Tilden Avenue in Brooklyn, officers began forming lines facing each of the roads leading to the intersection. PO Mariusz Galazka of the 61st Precinct allegedly stated, “Come on you little bitch. Come get it so I can beat the shit out of you, you little pussy” (**Allegation A – D: Offensive Language, Abuse of Authority, Discourtesy;** § 87(2)(g) PO Galazka was allegedly indiscriminately pushing forward with his baton, contacting everyone he could reach. At one point, PO Galazka possibly swung out with his baton, but § 87(2)(b) ability to observe this was impeded because he was being trampled by other protestors (**Allegation E: Force;** § 87(2)(g) PO Christopher Pierre of the 70th Precinct allegedly was swinging his baton overhead with one hand and hitting protestors. § 87(2)(b) saw PO Pierre hit a couple of protestors in the back of their legs, as well as at least one person in the back of the head (**Allegations F and G: Force;** § 87(2)(g)

§ 87(2)(b) also observed two officers allegedly grab an unidentified woman, throw her to the ground, and arrest her. § 87(2)(b) also observed another unidentified woman running across from the east to the west side of Bedford Avenue; an officer allegedly pushed her from behind so that she fell onto the ground face-first, after which she got up and kept running (**Allegations H and I: Force,** § 87(2)(g) PO Michael Haber of the 71st Precinct continually ran towards the unruliest area of the protest at any given time to push protestors. Later, PO Haber was in the line of officers next to § 87(2)(b) where § 87(2)(b) observed that PO Haber’s shield number was covered with a black band (**Allegations J and K: Force, Abuse of Authority,** § 87(2)(g) and § 87(2)(g)

§ 87(2)(b) stood in a U-shape with other protesters during which an officer turned to § 87(2)(b) and started pushing in her direction. This officer grabbed § 87(2)(b) right arm and twisted it behind her. § 87(2)(b) also believed that this officer pushed her back (**Allegations L and M: Force;** § 87(2)(g)

Prior to the protesters being pushed onto the sidewalk, Captain Vitaliy Zelikov of the 70th Precinct used pepper-spray on a group of protestors in the middle of the street, hitting a photographer determined to be § 87(2)(b) directly in his eyes, as well as contacting § 87(2)(b) (**Allegation N and O: Force,** § 87(2)(g)

During this, § 87(2)(b) was personally trampled and pushed back into a vehicle by unknown officers (**Allegation P: Force,** § 87(2)(g)

This case involves allegations of concerted enforcement actions performed under the command and supervision of the then Chief of Department Terrance Monahan and Assistant Chief Brian Conroy of Patrol Borough Brooklyn South. AC Conroy issued the instruction to clear out the street during the protest (**Allegations Q and R: Force,** § 87(2)(g) § 87(2)(g), § 87(4-b)

§ 87(2)(g)

§ 87(2)(g)

Findings and Recommendations

Allegation (A) Offensive Language: Police Officer Mariusz Galazka made remarks to individuals based upon the perceived sexual orientation of individuals.

Allegation (B) Offensive Language: Police Officer Mariusz Galazka made remarks to individuals based upon the gender of individuals.

Allegation (C) Abuse of Authority: Police Officer Mariusz Galazka threatened individuals with the use of force.

Allegation (D) Discourtesy: Police Officer Mariusz Galazka spoke discourteously to individuals.

Allegation (E) Force: Police Officer Mariusz Galazka struck individuals with an asp.

§ 87(2)(b) testified that on the incident date, around 3:00 or 3:30 p.m., he attended a Police Brutality Protest demonstration at Parkside Avenue and Ocean Avenue in Brooklyn. At approximately 4:00 p.m. or 4:30 p.m., the group began marching along Parkside Avenue towards Flatbush Avenue before embarking south on Flatbush Avenue. There was a police presence during this, however there was no interaction between them and the protesters. Throughout the protest, § 87(2)(b) saw no violence perpetuated by any protestor, except for the throwing of half-empty, plastic Poland spring water bottles. Upon reaching Tilden Avenue, the group encountered a line of police officers blocking off further progression south on Tilden Avenue, with more officers arriving on scene. The group took a left onto Tilden Avenue, before turning right at the intersection of Bedford Avenue and continuing south. The protest continued walking down Bedford Avenue for approximately two more blocks, before encountering another line of officers and barricades impeding further progress. As the group reached the intersection of Bedford Avenue and Tilden Avenue, the officers began forming lines facing each of the roads leading to the intersection to divide the protestors and force them to move back by marching towards them. Once the protestors were corralled north of Tilden Avenue, officers began repeatedly forming lines two to four officers deep, charging at the protestors and pushing them aggressively. § 87(2)(b) was present for between three and five of these charges. During these charges, PO Galazka stood inches away from protestors making statements such as, “Come on you little bitch. Come get it so I can beat the shit out of you, you little pussy”; he directed many of these statements towards one particular unidentified individual who was not backing down and was talking back to him. § 87(2)(b) took a photograph of PO Galazka after observing this [BR15]. At one point, PO Galazka began pushing forward with his baton. § 87(2)(b) could not see who, if anyone, PO Galazka struck with his baton, as the scene was chaotic, and protestors were falling over each other due to the charging officers [BR03].

PO Galazka testified that he was covering the protests at Barclays Center when he was relocated to Prospect Park with a group of other officers. Upon arriving, he was instructed to follow a group of marching protestors. After following this crowd for about twenty minutes, PO Galazka arrived at Bedford Avenue and Tilden Avenue, where about forty officers and hundreds of protestors were present. The protestors were yelling and screaming at the officers, although PO Galazka could not recall what they were saying, and some protestors were throwing plastic water bottles at the officers. Numerous supervisors instructed PO Galazka to “hold the line”, which consisted of forming three lines surrounding the crowd of protestors on three sides. At one point, he was facing the crowd of protestors directly. He did not call any protestors a “little bitch” or “pussy” and did not threaten to “beat the shit” out of any protester. PO Galazka repeatedly told the protestors to move back and pushed his baton out horizontally against the chest area of advancing protestors, pushing them back. He stated that he did this to keep the protestors from moving behind the officers, which was unsafe. He did not take any other physical actions with his baton [BR04].

PO Galazka did not activate his BWC during the incident. No other BWC received for this case captured the alleged interaction between § 87(2)(b) and PO Galazka [BR01 and BR02].

§ 87(2)(g)

Allegation (F) Force: Police Officer Christopher Pierre used physical force against individuals.

Allegation (G) Force: Police Officer Christopher Pierre struck individuals with a baton.

§ 87(2)(b) testified that, during the police charges, he observed PO Pierre swinging his baton overhead with one hand and hitting protestors, laughing as he did so. § 87(2)(b) could not describe when this happened during the series of charges due to the general state of chaos. § 87(2)(b) could not describe any of the individuals PO Pierre hit with his baton. § 87(2)(b) specifically recalled seeing this happen while he was 45 to 50 feet away from the intersection. PO Pierre was in the middle of the street, facing north as he did this, a similar distance from Tilden Avenue. § 87(2)(b) saw PO Pierre hit a couple of protestors in the back of their legs, as well as at least one person in the back of their head. § 87(2)(b) could not describe the individual protestors who PO Pierre hit. At one point, § 87(2)(b) and other protestors were being pushed back into a car and were shouting that there was nowhere to go, to which PO Pierre responded, “I don’t care.” § 87(2)(b) then read PO Pierre’s name and shield number out loud, to which PO Pierre responded, “Yup” [BR03].

PO Pierre testified that he was with his partner, PO Bradshaw, when he received a radio run call that there was a large group of protestors at the intersection of Flatbush Avenue and Tilden Avenue; no other information was provided over the call. The officers responded and, upon arriving, PO Pierre observed a crowd of 1,000 protestors walking on Tilden Avenue with police officers, although PO Pierre did not know how many. PO Pierre was on scene with the protestors for 15 to 20 minutes when a call went over the radio for an “85”, which is a request for backup. PO Pierre and PO Bradshaw went east towards Bedford Avenue, where they encountered a group of 300 to 400 protestors surrounding an NYPD vehicle, which had two police officers inside. At one point, a protester threw a water bottle, which led PO Pierre to believe that the crowd may become violent. After an unknown time on scene, a supervisor, he did not know who, instructed PO Pierre and the other officers on scene to move the crowd to either side of the street. PO Pierre and the surrounding officers made a U-shape around the NYPD car, and held their batons out. PO Pierre moved the crowd by holding his baton with both hands horizontally in front of his chest, with his arms locked, either fully extended or bent at the elbows, and pressed the baton against crowd members, contacting an individual’s chest area, not the head, neck, or other sensitive body part; he stated that he was trained in this tactic at the police academy as a way to control a crowd, to be used for such situations as protests. PO Pierre stated that this maneuver is not considered a “push” or use of force, and it is thought to be a guiding mechanism. PO Pierre denied striking any protestors in the legs or the back of the head during the incident. He repeatedly told protestors to move, which they were largely noncompliant with, while guiding the protestors back with his baton [BR05].

PO Pierre’s BWC shows the officer standing in front of a crowd of protestors, who have their hands up and appear to be in the street, from 20:50 minutes until 22:31 minutes. At 22:31 minutes, an officer is heard saying, “Get em’ out of here”, at which PO Pierre and the surrounding

officers begin pushing into the crowd. PO Pierre's BWC does not show him striking any individual with his baton [BR06].

After reviewing the above BWC footage, PO Pierre testified that, at this point in the protest, the protestors had begun throwing items at the officers – specifically, water bottles, and on two instances a piece of concrete and a milk jug, as well as spray painted a vehicle. For these reasons, he believed the protest had become a riot. He stated that he and the other officers pushed the protestors to move them to the side to clear a path for police vehicles and ambulances to make their way through. He additionally stated that these protestors were part of an illegal gathering, since they had been repeatedly ordered to disperse, and were obstructing vehicular traffic. PO Pierre stated that the officer who shouted, "Get em out, get em out," was most likely a Strategic Response Group (SRG) officer in front of him who he could not identify. He stated that SRG most likely was making the decision to push the protestors back, because they were on scene for "riot control." Prior to this point, PO Pierre stated that these individuals had been ordered to "disperse, move onto the sidewalk, just not be in the middle of the road [sic]." He did not recall from the footage if any instructions were issued to the protestors prior to them being pushed. PO Pierre stated that he had his baton out horizontally at around chest height, and that his arms were "pretty much" locked forward. PO Pierre was not using any other sort of force against the protestors during the interaction [BR05].

As Per Patrol Guide Procedure 221-01, a member of service (MOS) may use force when it is reasonable to ensure the safety of a MOS or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In determining whether the use of force is reasonable, MOS should consider the nature/severity of the crime/circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, MOS, and/or bystanders, whether the subject is actively resisting custody, whether the subject is actively resisting arrest by flight, number of subjects in comparison with the number of MOS, size, age, and condition of the subject in comparison to the MOS, subject's violent history (if known), presence of hostile crowd or agitators, or whether the subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence [BR07].

It was determined by the investigation that the use of batons to push protestors out of the street, such as PO Pierre, was a result of the orders from Chief Monahan and AC Conroy to clear the street, and therefore the ultimate responsibility for this force is theirs. The report discusses this in its analysis of Allegations Q and R. § 87(2)(g)

§ 87(2)(g)

As PO Pierre denied striking any individual with his baton and no BWC or testimony corroborated § 87(2)(b) testimony, § 87(2)(g)

§ 87(2)(g)

Allegation (H) Force: Officers used physical force against individuals.

Allegation (I) Force: An officer used physical force against individuals.

§ 87(2)(b) testified that at one point during the protest, he observed officers violently arrest an unidentified woman on Tilden Avenue between Flatbush Avenue and Bedford Avenue.

§ 87(2)(b) could not say whether the officers were in the street or on the sidewalk. As he was moving back up the middle of Bedford Avenue approaching Tilden Avenue, § 87(2)(b)

observed from approximately 75 feet away two uniformed officers grab this unidentified individual and throw her to the ground. § 87(2)(b) could not describe these officers, aside from stating that they were probably wearing helmets. The officers then picked her up and dragged her away. § 87(2)(b) did not observe what happened prior to this point but believed the individual had been spray-painting the NYPD vehicle, which he deduced because there was “a lot of spray paint” on it. At another point, § 87(2)(b) observed from approximately 30 feet away a different unidentified female running across from the east side of Bedford Avenue to the west side, around 25 feet north of Tilden Avenue. An officer in a supervisory role pushed her from behind so that she fell onto the ground face-first. She got up and kept running, and § 87(2)(b) did not think she was arrested. § 87(2)(b) yelled at the officer in front of him, a PO Ruiz, “Did you see that?” PO Ruiz looked back, laughed, and responded, “I didn’t see anything.” § 87(2)(b) then recited PO Ruiz’s name out loud so that he knew that § 87(2)(b) saw him [BR03].

The investigation was unable to identify the two unidentified individuals who § 87(2)(b) observed be arrested. No BWC footage received by the investigation captured these allegations [BR01 and BR02].

As § 87(2)(b) was unable to provide physical descriptions of the officers and the arrested individuals remain unidentified, the investigation could not take any further investigative actions to confirm the identities of these officers § 87(2)(g)

Allegation (J) Force: Police Officer Michael Haber struck individuals with a baton.

Allegation (K) Abuse of Authority: Police Officer Michael Haber refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) testified that during the charges discussed above, he observed PO Haber continually running towards into especially chaotic areas of the protest, violently pushing and hitting protestors. § 87(2)(b) stated that PO Haber appeared to do this with the intention to involve himself in as much violence as possible. § 87(2)(b) remembered PO Haber because he kept entering and exiting his field of vision while doing this, during which he observed his name on his shield. Later, PO Haber ended up in the line of police next to § 87(2)(b) while he was on sidewalk. § 87(2)(b) read PO Haber’s name off his shield but observed that his shield number was covered with a black band [BR03].

PO Haber testified that he and his partner, PO Owens, were directed to respond to a large protest at Ocean Avenue and Parkside Avenue; he was not given any additional information about the protest. Upon arriving on scene, he observed an individual speaking on stage to a large crowd of 10,000-15,000 people, who were peaceful. There were about 25 additional officers also on scene from precincts other from the 71st Precinct, none of whom PO Haber knew. After the speakers finished, an individual announced that the protestors were going to march to a different location. Inspector Tito Romero of the 71st Precinct told PO Haber and other officers to follow them but issued no other instructions aside from telling them to leave their cars behind and stay together. When PO Haber reached Bedford and Tilden Avenue with the protest, a crowd of protestors surrounded PO Haber and a group of 12 officers, who had their backs against a brick building at the southeast corner of the intersection and began throwing objects, primarily plastic soda bottles and possibly a few small rocks, at the officers, who were standing in a line. PO Haber believed certain member of the crowd may have instigated this but did not know specifically what caused the crowd to begin throwing objects. Members of the crowd told PO Haber and the other officers that they hoped the officers and their families died, that they should kill themselves, and that they should quit their jobs. PO Haber perceived a threat to his safety at this point, not due to the words that were

being directed at him and the other officers, but due to the size of the crowd which was closing in. Aside from telling the crowd to back up when they got too close, the officers issued no other instructions. During this, PO Haber heard multiple calls for help over the radio, including an officer request help over the radio, stating “I’m by myself in my car, I think this may be my last transmission. I’m at Bedford and Tilden.” PO Haber and the officers he was with attempted to locate the vehicle from which the call was being made but were unable to due to there being multiple vehicles in the vicinity which were surrounded by protestors. The protestors surrounding the vehicles were smashing the windows of police vehicles, rocking them back and forth in effort to enter the vehicles, and spray painting them. The protestors were also preventing NYPD vehicles from reaching PO Haber and the officers he was with. Between 10 and 12 minutes later, approximately 100 to 150 additional officers arrived, including officers from SRG. Numerous supervisors also arrived on scene; PO Haber was unaware if Chief Monahan was on scene. These supervisors instructed the officers to create a perimeter, using officers, barricades, and police vehicles, to protect the officers and their vehicles, and preserve a pathway for police vehicles and ambulances to make their way through. PO Haber and other officers were instructed to keep the street clear and get civilians onto the sidewalk, but otherwise were issued no instructions. PO Haber stated that he and the officers implemented these instructions by moving the protestors onto the sidewalks and back into the side streets with some officers using batons and others using their hands. PO Haber used his baton to push the protestors back and out of the street, with two hands placed on the baton, holding it parallel to the ground, which is what he was trained to do. PO Haber did not strike civilians with his baton. He denied using his baton in any manner aside from attempting to move protestors into a different area. PO Haber did not know how many times he used his baton against the protestors. PO Haber uniformly told protestors to get on the sidewalk before using force against them, but stated that multiple protestors did not comply with these orders. While the civilians were being pushed onto the sidewalk, some civilians threw large rocks and frozen water bottles and used homemade mace against the officers. PO Haber was hit by a few water bottles, a “pretty decent sized rock,” in his head, neck, and chest, and was also pepper-sprayed by someone on a bicycle. The officers were eventually able to clear Bedford Avenue for ambulances and police vehicles. PO Haber stated that he was in the area for about three to four hours and continually moved back and forth as the protest relocated to different areas. He did not recall if he had his shield number covered with a black band during this incident [BR08].

PO Haber’s BWC captures him pushing protestors in the crowd. At 1:41 minutes, he begins shoving through the crowd. At 08:55 minutes officers begin charging into the crowd and pushing protestors. At 10:30 PO Haber pushes back a female with a sign saying “Killer Cops Deserve Death.” At 10:49 minutes PO Haber pushes back a female while saying “back up,” causing her to move back several feet. At 14:10 PO Haber says that the protestors have “Fucked with every car” and put holes in every window. At 16:35 PO Haber begins screaming “Get back” while pushing protestors. PO Haber pushes a protestor at 16:55. At 17:14 minutes, PO Haber begins pushing forward behind several other officers and another protestors at 17:28 minutes [BR09].

After reviewing his BWC footage, PO Haber explained that he pushed the protestors for the purposes of clearing the street, as he was directed to do, as well as to get through the crowd. He stated there was no other reason as to why he used force [BR08].

As Per Patrol Guide Procedure 221-01, a member of service (MOS) may use force when it is reasonable to ensure the safety of a MOS or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In determining whether the use of force is reasonable, MOS should consider the nature/severity of the crime/circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, MOS, and/or bystanders, whether the subject is actively resisting custody, whether the

subject is actively resisting arrest by flight, number of subjects in comparison with the number of MOS, size, age, and condition of the subject in comparison to the MOS, subject's violent history (if known), presence of hostile crowd or agitators, or whether the subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence [BR07].

It was determined by the investigation that the force to push protesters out of the street, such as PO Haber used, was a result of the orders from Chief Monahan and AC Conroy to clear the street, and therefore the ultimate responsibility for this force is theirs. The report discusses this in its analysis of Allegations Q and R. § 87(2)(g)

As PO Haber did not recall if his shield was covered with a black band and no photograph or BWC footage confirmed this, the investigation could not corroborate § 87(2)(b) testimony. § 87(2)(g)

Allegation (L) Force: Captain Vitaliy Zelikov used physical force against § 87(2)(b)

Allegation (M) Force: Captain Vitaliy Zelikov used physical force against § 87(2)(b)

§ 87(2)(b) testified that at approximately 5:00 p.m., at an unknown location, § 87(2)(b) observed a crowd of people chanting, "Let her go, let her go." § 87(2)(b) learned later that a woman was being arrested but did not know what was happening at the time. § 87(2)(b) moved to the front of the crowd and stood in a U-shape with the other protestors, surrounding three officers who were up against two parked cars. § 87(2)(b) held up her hands. § 87(2)(b) observed more officers making their way into the U-shape of protestors, including an officer in a supervisory role. The officers repeated, "back up" and "move," but otherwise issued no instructions. After a brief standoff, this officer turned to § 87(2)(b). § 87(2)(b) did not remember if something prompted this, but he started pushing in § 87(2)(b) direction. § 87(2)(b) deliberately did not move when she was pushed. § 87(2)(b) did not know if her not moving her body pushed the officer back. He grabbed § 87(2)(b) right arm and twisted it behind her. § 87(2)(b) also believed that he pushed § 87(2)(b) back. Numerous protestors then swarmed around § 87(2)(b) who was able to break free [BR10].

§ 87(2)(b) described the officer she interacted with as a white male, 5'10" to 6'0" tall, with a boxy build and big arms, in his late forties or fifties, and clean-shaven, with tattoos on his arms that have prominent green hues. From his shield, she believed his last name to be "Delakov" but could not provide any additional information about the officer [BR10]. Captain Zelikov is a 38-year-old white male, standing 6'0" tall, weighing 220 pounds [BR11]. Photographs of Captain Zelikov, taken by § 87(2)(b) show that he had green tattoos on his arms [BR12]. Given the similarity in appearances and names between the two and given that Captain Zelikov was the only known officer on scene to deploy his pepper spray, the investigation determined that the officer who committed this alleged force was Captain Zelikov.

Captain Zelikov testified that at approximately 3:00 p.m., he was assigned to command a detail of sixteen officers and two sergeants regarding a protest at Parkside Avenue and Ocean Avenue in Brooklyn. The intent of Captain Zelikov and the officers under his command in being at the location was to observe the protest. The attendance at the protest greatly exceeded the officers' expectations, reaching around 3000 people. The crowd then began to march down Parkside Avenue, and Captain Zelikov and his detail followed. The protestors were walking in the street as well as the sidewalk and were largely peaceful. Captain Zelikov did not remember if there were any

efforts to divert or otherwise try to control the movement of the crowd. At some point, he received multiple radio calls for help from officers in the vicinity of Bedford Avenue and Tilden Avenue, including one from an officer who believed it would be his last transmission. Captain Zelikov ran to the intersection; upon arriving, he observed multiple protesters, who greatly outnumbered the officers, throwing objects, such as bricks, glass bottles, and other objects, at the officers and their vehicles. He ordered the couple dozen officers on scene to make a rectangular perimeter around the crowd, so no protesters approached them from behind. He told the officers to “hold the line” but did not recall issuing any other instructions. He observed the officers on scene push protesters back using their batons, by holding the baton horizontally with two hands and pushing the protesters back. He did not see any officer use their baton in any other way. Captain Zelikov stated that he did not use any physical force against any protesters at this point [BR13].

Captain Zelikov’s BWC does not show him using pushing § 87(2)(b) or grabbing her arm [BR14]. No other officers’ BWC captures the alleged force [BR01 and BR02].

As Captain Zelikov denied using any force against any protester (prior to deploying his pepper spray) and no BWC captures any interaction between § 87(2)(b) and Captain Zelikov § 87(2)(b)

§ 87(2)(g)

Allegation (N) Force: Captain Vitaliy Zelikov used pepper spray against § 87(2)(b)

Allegation (O) Force: Captain Vitaliy Zelikov used pepper spray against § 87(2)(b)

§ 87(2)(b) testified that, at some point before the protestors were pushed onto the sidewalk, § 87(2)(b) observed an officer, whom he believed to be a supervisor, pepper-spray a group of protestors in the middle of the street, hitting a photographer directly in his eyes. § 87(2)(b) was about three feet away from the photographer. The photographer fell down to the ground, and § 87(2)(b) followed him out of the crowd along with three to four other people, some of whom had milk and water with which they doused the photographer’s face as he sat on the ground. The photographer stayed on the ground coughing and dry-heaving for around 45 minutes. § 87(2)(b) observed that the photographer had two cameras, as well as what he believed to be a press pass hanging from a lanyard around the photographer’s neck. The next day, § 87(2)(b) saw a photograph taken by the photographer [BR15] depicting him being pepper-sprayed in the New York Times and learned the photographer’s name, § 87(2)(b) [BR03].

§ 87(2)(b) testified that, at some point while in the U-shape, this officer brandished a small spray bottle which § 87(2)(b) believed to be pepper-spray, and which resembled an upside-down inhaler and deployed it against the group. § 87(2)(b) bowed her head and the pepper-spray avoided her eyes and face, but burned her scalp. § 87(2)(b) could not feel her arm for a few minutes after her arm was twisted back and thought it had been broken. Protestors asked if she needed help and if she had been hit. She did not see anyone, besides herself, get pepper-sprayed, but said she was focused very specifically on what was in front of her. § 87(2)(b) informed that she was aware of a photograph which depicts her being present as another individual was pepper-sprayed by an officer in a supervisory role [BR10].

The investigation was unable to contact § 87(2)(b) for a statement regarding the incident.

Captain Zelikov testified that within an hour of arriving at Bedford Avenue and Tilden Avenue, he used multiple bursts of pepper spray to get a large group of advancing protestors to move back from the officers, as protestors were moving toward him, throwing objects; he stated

that he was fearful for his life and that the other officers were “on the verge of panic”. He stated that he was not wearing a helmet, and that he narrowly missed being hit with a brick and struck in the head twice with a skateboard. Captain Zelikov felt that to maintain some control of the crowd, using his pepper spray was his last remaining alternative to, “safely and harmlessly” take control of the situation. Captain Zelikov told the crowd to “get back” at least twice but did not remember if he warned that he was going to use pepper-spray. He could not estimate the size of the group beyond saying it was “large.” Captain Zelikov deployed the pepper spray from around an arm’s length away, directing the pepper spray at the whole group, which was acting in “unison” to advance at the officers. He did not remember how many bursts of pepper spray he deployed or for how long he deployed them. Captain Zelikov stated that he believed the use of pepper spray against the crowd was appropriate because everyone inside the crowd was acting identically in a manner that justified the use of pepper spray. There were no additional reasons why Captain Zelikov used the pepper spray. He did not use his pepper spray against any protestors who were not advancing towards him and believed that the specific people he was pepper-spraying were engaged in violent activity towards officers. Captain Zelikov had no recollection of using his pepper spray against a photographer who was holding up a camera. He stated that, because of using the pepper spray, he was able to establish a “zone of safety” until backup arrived [BR13].

Captain Zelikov was shown the photograph capturing § 87(2)(b) at the protest [BR15]. Captain Zelikov recognized himself in the photograph and affirmed that this depicted the incident where he used pepper spray. He believed that the crowd was moving towards him when the photo was taken. Captain Zelikov also noted that this photo displayed a limited frame of the incident and does not show a destroyed police car in the vicinity, nor the fact that the crowd behind the protestors spanned for several blocks. He additionally added that the crowd was committing obstruction of governmental administration, as they refused to disperse and instead advanced on the officers. Captain Zelikov testified that he was unable to recognize § 87(2)(b) while he was in the crowd [BR13].

No BWC footage capturing Captain Zelikov using his pepper spray on the group [BR01 and BR02]. Captain Zelikov stated that this was because, at the time he deployed his pepper spray, his BWC had been ripped off his uniform and was later returned to him [BR13].

As Per Patrol Guide Procedure 221-01, a member of service (MOS) may use force when it is reasonable to ensure the safety of a MOS or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In determining whether the use of force is reasonable, MOS should consider the nature/severity of the crime/circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, MOS, and/or bystanders, whether the subject is actively resisting custody, whether the subject is actively resisting arrest by flight, number of subjects in comparison with the number of MOS, size, age, and condition of the subject in comparison to the MOS, subject’s violent history (if known), presence of hostile crowd or agitators, or whether the subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence [BR07].

According to Patrol Guide Procedure 221-07, O.C. pepper spray may be used to gain or maintain control of persons who are actively resisting arrest or lawful custody or exhibiting active aggression, or to prevent individuals from physically injuring themselves, members of service, or other persons. Members of service should avoid discharging O.C. pepper spray indiscriminately over a large area for disorder control [BR16].

Captain Zelikov stated that he deployed his pepper spray against the large group to gain control of the situation; however, the above cited procedure maintains that using pepper spray against a large crowd indiscriminately for crowd control should be avoided. And while he maintained that the crowd was acting in unison, the circumstances he described would have made it unlikely that he could have verified every individual was acting in a similar manner; indeed, Captain Zelikov's actions led § 87(2)(b) a member of the press and not a protester, to be pepper sprayed. Additionally, given the nature of pepper spray deployed over a large open-air area, Captain Zelikov had no control over which protesters, whether they participated in the actions described above or not, would be affected by the spray. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (P) Force: Officers used physical force against § 87(2)(b)

§ 87(2)(b) additionally testified that he was personally trampled and pushed back into a vehicle. § 87(2)(b) could not describe any specific incidents of the trampling or specifically identify any of the officers involved due to the interaction being a "blur" [BR03].

No BWC footage captured § 87(2)(b) being trampled or pushed into a vehicle by any officer [BR01 and BR02].

As § 87(2)(b) was unable to provide physical descriptions of the officers, the investigation could not take any further investigative actions to confirm the identities of these officers. § 87(2)(g)

§ 87(2)(g)

Allegation (Q) Force: Assistant Chief Brian Conroy participated in the use of force against individuals.

Allegation (R) Force: Chief of Department Terence Monahan participated in the use of force against individuals.

Chief Monahan testified that on May 30, 2021, he heard an unidentified officer make a 10-13 radio transmission from an unknown location, stating that the call may be "the last transmission" he will make. Chief Monahan later received confirmation from Inspector Romera, the Commanding Officer of the 71st Precinct, that the call came from the intersection of Bedford Avenue and Tilden Avenue, and he subsequently responded to the location, arriving at around 6:00 p.m. Upon arriving, Chief Monahan observed approximately 100 officers with 100 civilians. Upon arriving, Chief Monahan became the highest-ranking officer on scene, which up to that point was AC Conroy. He did not know which commands were already in effect when he arrived on scene. By the time Chief Monahan arrived, officers on scene were already lined up in a "U" shape at the intersection with protestors on the outside of this "U" shape. There were no barricades on the street at this location. The goal of using this formation was for the police to keep the crowd of civilians out of the intersection—not to contain civilians inside of any area. He did not know, and did not learn later, which officer issued the order for this tactic. Chief Monahan had never seen this "U" shape formation used before in his tenure at the NYPD. Unidentified officers told Chief Monahan that prior to his arrival, the members of the crowd had dragged NYPD officers out of their marked police vehicles and into the crowd, and that these officers had to be rescued from the crowd by other officers. Chief Monahan did not personally witness this. Also on scene was Public Advocate § 87(2)(b) who informed Chief Monahan that the protesters were intending to march along

Bedford Avenue. Chief Monahan then ordered the officers on scene to form a straight line along Bedford Avenue, separating the protesters from the row of the NYPD vehicles. During these conversations, protesters threw multiple bottles at officers, one of which struck a protester in the head and injured them, which Chief Monahan personally witnessed. Beyond this, Chief Monahan did not see any visible injuries to any civilians or officers during this incident. At approximately 6:30 p.m., the officers pulled back from the U-shape to allow the protesters to continue marching. At approximately 7:00 p.m., remaining protesters refused to march down Bedford Avenue, linking arms and remaining stationary. The officers then closed off Bedford Avenue by forming a line; no protesters attempt to pass the officers after this and began marching in the opposite direction. As the protesters were marching, they passed an abandoned police vehicle, which some of the protesters began smashing. Officers on scene began conducting forcible takedowns to arrest these individuals, although Chief Monahan did not issue orders for these arrests to be made or for force to be used. He did not issue any officers any instructions for the remainder of his time at Bedford Avenue and Tilden Avenue. Aside from the forcible takedowns and some pushing of civilians by officers (which he described as “minimal”), Chief Monahan did not observe officers using any other physical force [BR17].

AC Conroy testified that he was stationed at the Patrol Borough Brooklyn South stationhouse when he was informed by Captain Zelikov that the ongoing protest at Park Side and Ocean Avenue was much larger than they had anticipated; he did not provide AC Conroy with any additional information, such as what the protesters were doing. Upon arriving at the scene, he observed approximately 1,000 protesters gathered; 16 officers had initially been assigned to cover the protest, but additional officers began arriving on scene as backup. At 2:00 p.m., the protesters began walking in the streets, with the officers, including AC Conroy, following them. When the protestors reached the intersection of Bedford and Tilden Avenue, other groups of protestors joined the initial group of approximately 1000 protestors. AC Conroy could not approximate how many additional protestors joined the initial group. At this point the protestors stopped in the street and lined up in front of the police. Some protestors began to throw objects from the back of the group of protestors. At some point protestors lit a police car on fire. To this point in time, AC Conroy instructed officers to get the protestors out of the street and onto the sidewalks. AC Conroy did not remember who he gave these orders to specifically but issued these instructions to whichever officers were near him. AC Conroy asked elected officials on scene, including Public Advocate § 87(2)(b) if they would be able to speak with the crowd and calm them down. He also attempted to speak with the crowd, asking them if they wanted to continue marching, but both he and the elected officials were met with yelling and cursing from the protesters. The officers on scene, including AC Conroy, were asking the protestors to get behind some of the barriers the officers erected and to get onto the sidewalk. AC Conroy did not believe that an LRAD was used to message the protestors. Initially, for a short time, some of the protestors complied with the officers. AC Conroy stated that he gave the instructions for officers to move protestors onto the sidewalk and behind the barriers so that the protestors could clear out of the intersection, as this was becoming a “dangerous situation for those officers who were standing at that intersection.” AC Conroy told the officers to set up the barricades and to ask the protestors to get onto the sidewalk, behind the barriers. He did not see any officers use force at this point to get the protestors onto the sidewalk. AC Conroy did not see pepper-spray being used at this point, nor did he instruct anyone to use pepper-spray. While at Bedford and Tilden Avenue, protesters began throwing objects at the officers, including rocks, bricks, bottles, garbage, and objects from construction sites; AC Conroy stated he was struck by some of the objects, but refused to specify which objects or when. It was at this point that AC Conroy gave instructions to get the crowd onto the sidewalk and to disperse. AC Conroy denied instructing officers to use force to get protestors onto the sidewalks at Bedford Avenue and Tilden Avenue. He denied instructing officers to push or use pepper-spray against protestors to get them onto the sidewalk and denied doing so himself. While at Bedford Avenue and

Tilden Avenue, he spoke with Chief Monahan about the best way to communicate with the protesters; Chief Monahan did not issue any instructions regarding how to handle the protesters [BR18].

As of May 30, 2020, Chief Monahan was the acting Chief of Department of the NYPD. § 87(2)(g)

§ 87(2)(g). At the time of his CCRB interview, AC Conroy was still an active member of service. § 87(2)(g)

While the investigation determined that both Chief Monahan, as the highest-ranking officer at Bedford and Tilden Avenue, and AC Conroy, the commanding officer who issued the order for NYPD officers to move the protesters onto the sidewalk, were responsible for the force used against the protesters. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party [BR22].
- § 87(2)(b) has been party to two other CCRB complaints [BR23].
- PO Galazka has been a member of service for 13 years and has been a subject in four other CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g)
- PO Pierre has been a member of service for five years and has been a subject in four other CCRB complaints and ten allegations, three of which have been substantiated:
 - Case #201809275, in which an offensive language – other allegation was substantiated, for which the Board recommended formalized training, but which PO Pierre ultimately received no disciplinary action.
 - Case 20200797, in which two allegations of force – nightstick as club allegations were substantiated, for which the Board recommended charges and is awaiting an NYPD disposition.
- PO Haber has been a member of service for seven years and has been a subject in one prior CCRB complaint and one allegations, which was not substantiated. PO Haber is a subject in two open CCRB cases:
 - § 87(2)(g)
 - Case #202101508, in which a property damage allegation is pled, is currently under investigation.
- Captain Zelikov has been a member of service for 16 years and has been a subject in 18

CCRB complaints and 54 allegations, three of which were substantiated:

- Case #201103208, a premises entered and/or searched allegation was substantiated, for which the Board recommended charges. The NYPD recommended no disciplinary action, which Captain Zelikov ultimately received.
- Case #201503516, a force – nonlethal restraining device and stop allegation were substantiated, for which the Board recommended Command Discipline A. The NYPD recommended no disciplinary action, which Captain Zelikov ultimately received.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- On October 5, 2021, a FOIL request was submitted with the New York City Office of the Comptroller to determine if a Notice of Claim was filed for this incident, the results of which will be added to case file upon its receipt [BR24].
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 8

Investigator: Genevieve Lamont SI Genevieve Lamont 11/18/2021
Signature Print Title & Name Date

Squad Leader: Ethan De Angelo IM Ethan De Angelo 11/18/2021
Signature Print Title & Name Date

Reviewer: _____

_____ Signature	_____ Print Title & Name	_____ Date
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